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09/622,249	08/15/2000	Peter Alan Smith	CU-2328 TFP	9730

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EXAMINER

EDELL, JOSEPH F

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 06/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/622,249

Applicant(s)

SMITH, PETER ALAN

Examiner

Joseph F Edell

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 22-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 22-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 25 May 2003 has been entered.

### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities: "within the bladder in use" (lines 10-11) should read "within the bladder when in use". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 9 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 9 recites the limitation "the cushion" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim.

6. Regarding claim 22, the phrase "wherein each bladder is adapted to underlie entirely that respective part of a user adjacent to the seat and backrest" is indefinite since the scope of the claim cannot be determine because people cannot be claimed and people vary in shape and size.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-10, 13, 19, and 20, as best understood, are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 3,330,598 to Whiteside.

Whiteside discloses a chair that includes all the limitations recited in claims 1-10, 13, 19, and 20, as best understood. Whiteside shows a chair having a seat portion 12 (Fig. 1), a backrest 14 (Fig. 1), at least one air-containing cushion 18,20 (Fig. 1) on the seat that may be selectively pressurized prior to use, at least one air-containing cushion 22,24 (Fig. 1) on the backrest containing a bladder that may be selectively pressurized prior to use wherein an upper backrest cushion overlaps a lower backrest cushion (see Fig. 1), air cushion overlaps (see Fig. 1) secured on the frame by fastening material, a

layer of compressible foam material (see column 2, lines 1-8) that overlays the cushions, an upholstery material covering 16 (Fig. 1) that covers the compressible foam material, and air valves 18c,20c,22c,24c (Fig. 8) through which air is admitted. See Figures 2 and 5 for teaching that the bladders of the cushion are charged with a pressure substantially less than the maximum contained volume wherein the air displaced ranges from 15% to 60% of the maximum contained volume.

9. Claims 1-8, 14, and 17 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 5,762,618 to Yamanaka et al.

Yamanaka et al. disclose a chair that includes all the limitations recited in claims 1-8, 14, and 17. Yamanaka et al. show a chair having a seat portion 2 (Fig. 1), a backrest 3 (Fig. 1), at least one air-containing cushion 24 (Fig. 1) on the seat that may be selectively pressurized prior to use, at least one air-containing cushion 22 (Fig. 1) on the backrest containing a bladder that may be selectively pressurized prior to use, a layer of compressible foam material 15 (Fig. 4) that overlays the cushions, an upholstery material covering 31 (Fig. 1) that covers the compressible foam material, air valves (see column 4, line 47) through which air is admitted, and a pivotable leg support 10 (Fig. 1) with air-containing cushions, compressible material, and upholstery material. The bladders of the cushion are charged with a pressure substantially less than the maximum contained volume wherein the air displaced ranges from 15% to 60% of the maximum contained volume.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 11, 12, 14-18, and 22-25, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Whiteside in view of U.S. Patent No. 5,868,461 to Brotherston.

Whiteside discloses a chair that is basically the same as that recited in claims 11, 12, 14-18, and 22-25, as best understood, except that the chair lacks an underlay, a seat back pivot, wheels, and an a metal frame support structure with plastic sheet material, as recited in the claims. Brotherston shows a chair similar to that of Whiteside wherein the chair has a pivotable backrest 12 (Fig. 1), a seat portion 14 (Fig. 1), a pivotable seat support structure 81 (Fig. 2), and a leg support 75 (Fig. 1) made of metal frame members 16,18 (Fig. 1), plastic sheet material (see Fig. 1), and wheels 62 (Fig. 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the chair of Whiteside such that the chair has a foam sheet underlay positioned below the cushions, a backrest support structure pivotably mounted to the seat support structure, wheels, a pivotable seat support structure, and a pivotable leg support portion with cushion and overlaying materials wherein the backrest and seat support structure are metal frames with plastic sheet material that support the cushions, such as the chair disclosed in Brotherston. One

would have been motivated to make such a modification in view of the suggestion in Brotherston that the chair with the metallic, pivotable leg, seat, and backrest support structures allow for a reclining support of seated patient for long periods of time.

### ***Response to Arguments***

11. Applicant's arguments filed 25 May 2003 have been fully considered but they are not persuasive. Applicant argues that Whiteside fails to teach a chair including a bladder having a pressure equal to the surrounding atmospheric pressure wherein the amount of air in the bladder is not greater than 60% of the maximum contained volume of the bladder. However, the pressure inside the bladder of the chair taught in Whiteside is adjustable such that the pressure of the bladder is relatively high (see Fig. 5) as well as relatively low (see Fig. 4). The pressure and, subsequently, the percentage of the maximum contained volume vary depending on the desires of the user (see column 3, lines 17-20). Therefore, the adjustable bladder of the chair taught in Whiteside has instances wherein the pressure is equal to the atmospheric pressure and the volume is less than 60% of the maximum contained volume.

### ***Conclusion***

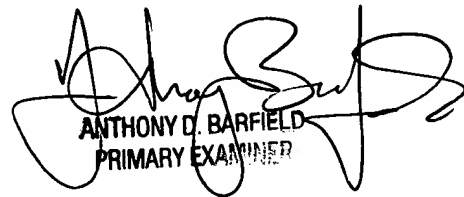
12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to chair bladders: JP Pub. No. 03222911 to Tootsu

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

JE  
June 12, 2003

  
ANTHONY D. BARFIELD  
PRIMARY EXAMINER